

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 1:18-cv-733
Plaintiff,)	
)	
v.)	
)	
ODYSSEY SPIRITS, INC.,)	
MARK A. HOEHN, and)	
LAURA A. HOEHN,)	
)	
Defendants.)	
_____)	

COMPLAINT

The plaintiff United States of America brings this civil action, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. §§ 7401 and 7402, to: (1) enjoin the defendants Odyssey Spirits, Inc., Mark Hoehn, and Laura Hoehn from continuing to operate a business (regardless of the entity through which such business is conducted) without paying the associated federal employment taxes on their employees' wages and (2) reduce to judgment certain unpaid assessed federal tax liabilities.

The plaintiff United States of America alleges:

Jurisdiction and Parties

1. Jurisdiction over this action is conferred upon the district court by 28 U.S.C. §§ 1331, 1340, and 1345 as well as 26 U.S.C. §§ 7401 and 7402.
2. Venue is proper under 28 U.S.C. §§ 1391(b) and 1396.

3. Defendant Odyssey Spirits, Inc. (“Odyssey”) is a corporation that operates a novelty store and a screen printing business from its principal place of business in Aurora, Portage County, Ohio, which is within the jurisdiction of the court.

4. Defendants Mark and Laura Hoehn are the shareholders and corporate officers of Odyssey.

5. Defendants Mark and Laura Hoehn reside in Chagrin Falls, Geauga County, Ohio, which is within the jurisdiction of the Court.

6. Odyssey conducts business under the trade name Odyssey Printwear.

Count I – Injunction

7. For various tax periods from 2002 to the present date, the defendants have failed to comply with their federal tax obligations and have engaged in an activity known as “pyramiding,” whereby a business repeatedly withholds taxes from its employees but fails to remit those taxes to the IRS as mandated by law.

8. Such activity has been and continues to be a drain on the United States Treasury.

9. At times relevant to this action, Odyssey has had employees and, as an employer, the company has been subject to federal employment tax obligations imposed by the Internal Revenue Code, including the duties to:

a. Withhold, account for, and pay over an estimated amount of income tax for each employee from each paycheck;

b. Withhold, account for, and pay over the employee portion of the tax imposed upon wages by the Federal Insurance Contributions Act (FICA) from each employee’s paycheck;

c. Pay the employer portion of the tax imposed upon employee wages by FICA;

d. Submit Form 941 (Employer's Quarterly Federal Tax Return) to the United States, along with any withheld employee income tax, withheld employee FICA tax, and the employer FICA tax not already deposited on or before the legal due date (approximately 30 days after the close of each calendar quarter);

e. Submit Form 940 (Employer's Annual Federal Unemployment Tax Return) to the United States along with payment of tax as required by the Federal Unemployment Tax Act (FUTA); and

f. Make federal tax deposits of a frequency required by the Internal Revenue Code and implementing regulations.

10. Since at least 2002, the IRS has attempted to bring Odyssey into compliance with its federal payroll tax obligations and to collect past-due payroll taxes from the company, including by:

a. Speaking with defendants Mark and Laura Hoehn about Odyssey's payroll tax obligations on numerous occasions;

b. Recording 37 Notices of Federal Tax Liens against Odyssey between 2008 and 2014;

c. Entering into installment agreements with the taxpayers;

d. Levying on Odyssey's bank accounts and accounts receivable;

e. Assessing trust fund recovery penalties, under 26 U.S.C. § 6672, against Mark Hoehn and Laura Hoehn for multiple quarterly periods, making them personally liable for a portion of Odyssey's unpaid employment taxes;

f. Engaging in collection due process hearings with Odyssey; and

g. Hand-delivering an IRS Letter 903 and Notice 931 to Mark Hoehn on December 9, 2016, which placed Odyssey on notice that if it continued to fail to comply with its employment tax obligations, then the IRS might pursue a suit for civil injunction.

11. Odyssey has a long history of failing to timely file federal employment (Form 941), unemployment (Form 940), and corporate income (Form 1120) tax returns, as well as failing to make the requisite tax payments of the liabilities due thereunder, which continues to this date. Such noncompliance has resulted in an amount due that exceeds \$728,236.78, as of February 22, 2018, plus such additional amounts as may continue to accrue as provided by law.

12. Odyssey continues to incur liabilities with each passing quarter and has not demonstrated a willingness to comply with its obligations under the Internal Revenue Code. There is no evidence that Odyssey or the Hoehns will make the necessary effort to become compliant, absent a court order compelling them to do so.

13. Odyssey's pyramiding undermines the administrative tools available to the United States for collecting delinquent taxes, as indicated by the substantial liabilities in paragraph 15, below.

14. An injunction against Odyssey and its owner-operators, Mark and Laura Hoehn (including through any other entity that they may conduct business), requiring them to comply with their federal payroll tax obligations is necessary and appropriate for several reasons, including:

a. Traditional collection methods have not convinced Odyssey and the Hoehns to stop pyramiding payroll tax liabilities;

b. Anything other than an injunction will encourage Odyssey and/or the Hoehns to continue pyramiding because it gives the corporation or any similar entity the Hoehns may form an unfair advantage over its tax-paying competitors;

c. The IRS estimates that, for each new quarter for which Odyssey fails to pay its employment taxes, the loss of revenue is approximately \$15,000 per quarter, which the United States will be unable to collect. The unpaid employee income taxes must nevertheless be credited to the individuals from whose wages the taxes are withheld. Similarly, the unpaid FICA taxes (withheld portion and employer's portion) must be credited to the employees for purposes of eligibility for social security benefits. In effect, Odyssey is stealing trust funds withheld as taxes from the government.

d. An injunction will not injure Odyssey as it will merely compel it to conduct business like every other tax-paying business in the United States. Moreover, an injunction will protect the public's interest in fair competition by halting Odyssey's illegal practices and leveling the playing field with its tax-compliant competitors.

Count II – Reduce Unpaid Tax Liabilities to Judgment

15. For the tax periods set forth in the table below, a delegate of the Secretary of the Treasury made the following assessments against Odyssey, for its failure to pay federal employment (Form 941), unemployment (Form 940), and income (Form 1120) taxes, as well as penalties and interest, in the following amounts, which have the following balances due as of the balance dates indicated, after accounting for all costs, fees, accruals, payments, credits, and abatements:

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
941	03/31/07	03/31/08	Tax	\$7,539.98	\$15,237.74	03/19/18
		03/31/08	Tax Deposit Penalty	\$753.98		
		03/31/08	Late Payment Penalty	\$1,696.50		
		03/31/08	Failure to Pay Tax Penalty	\$414.70		
		03/31/08	Interest	\$680.58		
		05/05/08	Tax Deposit Penalty	\$377.00		
		11/16/09	Failure to Pay Tax Penalty	\$1,432.60		
		11/15/10	Failure to Pay Tax Penalty	\$37.70		
		11/17/14	Interest	\$3,158.80		
		04/18/16	Interest	\$652.53		
941	09/30/07	03/31/08	Tax	\$9,083.63	\$16,426.11	03/19/18
		03/31/08	Late Filing Penalty	\$1,585.97		
		03/31/08	Failure to Pay Tax Penalty	\$176.22		
		03/31/08	Interest	\$269.83		
		07/14/08	Tax Deposit Penalty	\$869.24		
		11/16/09	Failure to Pay Tax Penalty	\$1,339.27		
		11/15/10	Failure to Pay Tax Penalty	\$246.71		
		11/17/14	Interest	\$3,006.43		
		04/18/16	Interest	\$671.94		
941	12/31/07	04/07/08	Tax	\$17,553.10	\$37,519.30	03/19/18
		04/07/08	Late Filing Penalty	\$1,579.78		
		04/07/08	Tax Deposit Penalty	\$1,755.31		
		04/07/08	Failure to Pay Tax Penalty	\$263.30		
		04/07/08	Interest	\$243.02		
		05/12/08	Tax Deposit Penalty	\$877.65		
		11/16/09	Failure to Pay Tax Penalty	\$3,247.32		
		11/15/10	Failure to Pay Tax Penalty	\$877.65		
		11/17/14	Interest	\$6,890.41		
		04/18/16	Interest	\$1,464.01		
941	03/31/08	02/08/10	Tax	\$15,180.00	\$11,461.82	03/19/18
		02/08/10	Late Filing Penalty	\$1,117.95		
		02/08/10	Failure to Pay Tax Penalty	\$546.55		
		02/08/10	Interest	\$535.92		
		05/24/10	Tax Deposit Penalty	\$872.85		
		11/14/11	Failure to Pay Tax Penalty	\$695.62		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		11/17/14 04/18/16	Interest Interest	\$1,423.50 \$447.23		
941	06/30/08	09/08/08 09/08/08 09/08/08 09/15/08 10/13/08 11/16/09 11/15/10 11/17/14 04/18/16	Tax Failure to Pay Tax Penalty Interest Dishonored Check Penalty Tax Deposit Penalty Failure to Pay Tax Penalty Failure to Pay Tax Penalty Interest Interest	\$7,011.16 \$5.00 \$2.67 \$90.22 \$250.56 \$721.62 \$526.17 \$1,687.95 \$387.21	\$9,939.94	03/19/18
941	09/30/08	12/22/08 12/22/08 12/22/08 12/22/08 02/02/09 11/15/10 11/14/11 11/17/14 04/18/16	Tax Tax Deposit Penalty Failure to Pay Tax Penalty Interest Tax Deposit Penalty Failure to Pay Tax Penalty Failure to Pay Tax Penalty Interest Interest	\$10,720.72 \$947.08 \$57.20 \$35.83 \$161.04 \$644.15 \$128.83 \$1,105.68 \$277.11	\$7,101.50	03/19/18
941	12/31/08	03/30/09 03/30/09 03/30/09 03/30/09 03/30/09 05/04/09 11/15/10 11/14/11 11/17/14 04/18/16	Tax Late Filing Penalty Tax Deposit Penalty Failure to Pay Tax Penalty Interest Tax Deposit Penalty Failure to Pay Tax Penalty Failure to Pay Tax Penalty Interest Interest	\$13,890.50 \$625.07 \$1,389.05 \$138.90 \$115.78 \$694.52 \$2,569.74 \$763.98 \$3,977.38 \$1,063.13	\$27,245.94	03/19/18
941	03/31/09	02/08/10 02/08/10 02/08/10 02/08/10	Tax Late Filing Penalty Tax Deposit Penalty Failure to Pay Tax Penalty	\$15,180.00 \$3,415.50 \$1,518.00 \$759.00	\$33,046.09	03/19/18

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		02/08/10	Interest	\$587.82		
		03/15/10	Tax Deposit Penalty	\$759.00		
		11/14/11	Failure to Pay Tax Penalty	\$3,036.00		
		11/17/14	Interest	\$4,063.54		
		04/18/16	Interest	\$1,289.46		
941	06/30/09	02/08/10	Tax	\$15,180.00	\$32,767.35	03/19/18
		02/08/10	Late Filing Penalty	\$3,415.50		
		02/08/10	Tax Deposit Penalty	\$1,518.00		
		02/08/10	Failure to Pay Tax Penalty	\$531.30		
		02/08/10	Interest	\$395.40		
		03/15/10	Tax Deposit Penalty	\$759.00		
		11/14/11	Failure to Pay Tax Penalty	\$3,111.90		
		11/12/12	Failure to Pay Tax Penalty	\$151.80		
		11/17/14	Interest	\$4,008.67		
		04/18/16	Interest	\$1,278.58		
941	09/30/09	11/29/10	Tax	\$15,180.00	\$32,382.03	03/19/18
		11/29/10	Late Filing Penalty	\$3,415.50		
		11/29/10	Tax Deposit Penalty	\$1,518.00		
		11/29/10	Failure to Pay Tax Penalty	\$986.70		
		11/29/10	Interest	\$820.46		
		01/03/11	Tax Deposit Penalty	\$759.00		
		11/14/11	Failure to Pay Tax Penalty	\$1,366.20		
		11/12/12	Failure to Pay Tax Penalty	\$1,442.10		
		11/17/14	Interest	\$3,233.74		
		04/18/16	Interest	\$1,263.54		
941	12/31/09	11/29/10	Tax	\$15,180.00	\$32,105.01	03/19/18
		11/29/10	Late Filing Penalty	\$3,415.50		
		11/29/10	Tax Deposit Penalty	\$1,518.00		
		11/29/10	Failure to Pay Tax Penalty	\$759.00		
		11/29/10	Interest	\$625.70		
		01/03/11	Tax Deposit Penalty	\$759.00		
		11/14/11	Failure to Pay Tax Penalty	\$1,366.20		
		11/12/12	Failure to Pay Tax Penalty	\$1,669.80		
		11/17/14	Interest	\$3,190.72		
		04/18/16	Interest	\$1,252.74		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
941	03/31/10	10/17/11	Tax	\$9,364.04	\$19,386.02	03/19/18
		10/17/11	Late Filing Penalty	\$2,106.91		
		10/17/11	Tax Deposit Penalty	\$853.08		
		10/17/11	Failure to Pay Tax Penalty	\$767.82		
		10/17/11	Interest	\$657.01		
		11/21/11	Tax Deposit Penalty	\$426.57		
		11/12/12	Failure to Pay Tax Penalty	\$1,119.52		
		11/18/13	Failure to Pay Tax Penalty	\$374.57		
		11/17/14	Interest	\$1,454.20		
		04/18/16	Interest	\$753.11		
		04/18/16	Failure to Pay Tax Penalty	\$79.10		
941	06/30/10	02/06/12	Tax	\$11,322.03	\$23,203.15	03/19/18
		02/06/12	Late Filing Penalty	\$2,547.46		
		02/06/12	Tax Deposit Penalty	\$1,036.08		
		02/06/12	Failure to Pay Tax Penalty	\$984.31		
		02/06/12	Interest	\$781.41		
		03/12/12	Tax Deposit Penalty	\$518.06		
		11/18/13	Failure to Pay Tax Penalty	\$1,754.91		
		11/17/14	Interest	\$1,546.39		
		04/18/16	Interest	\$901.55		
		04/18/16	Failure to Pay Tax Penalty	\$91.29		
941	09/30/10	10/24/11	Tax	\$13,552.71	\$25,312.27	03/19/18
		10/24/11	Late Filing Penalty	\$3,049.36		
		10/24/11	Failure to Pay Tax Penalty	\$746.54		
		10/24/11	Interest	\$610.42		
		11/12/12	Failure to Pay Tax Penalty	\$1,620.77		
		11/18/13	Failure to Pay Tax Penalty	\$948.69		
		11/17/14	Interest	\$1,859.72		
		04/18/16	Interest	\$984.64		
		04/18/16	Failure to Pay Tax Penalty	\$72.17		
941	12/31/10	10/24/11	Tax	\$9,392.25	\$18,987.37	03/19/18
		10/24/11	Late Filing Penalty	\$2,113.26		
		10/24/11	Tax Deposit Penalty	\$858.60		
		10/24/11	Failure to Pay Tax Penalty	\$386.38		
		10/24/11	Interest	\$313.41		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		11/28/11	Tax Deposit Penalty	\$429.31		
		11/12/12	Failure to Pay Tax Penalty	\$1,123.04		
		11/18/13	Failure to Pay Tax Penalty	\$798.34		
		11/17/14	Interest	\$1,392.62		
		04/18/16	Interest	\$739.19		
		04/18/16	Failure to Pay Tax Penalty	\$40.30		
941	03/31/11	10/10/11	Tax	\$7,755.85	\$14,265.32	03/19/18
		10/10/11	Late Filing Penalty	\$1,745.07		
		10/10/11	Failure to Pay Tax Penalty	\$232.68		
		10/10/11	Interest	\$168.58		
		11/12/12	Failure to Pay Tax Penalty	\$980.69		
		11/18/13	Failure to Pay Tax Penalty	\$775.59		
		11/17/14	Interest	\$1,047.89		
		04/18/16	Interest	\$556.64		
941	06/30/11	10/10/11	Tax	\$10,131.92	\$18,606.86	03/19/18
		10/10/11	Late Filing Penalty	\$911.87		
		10/10/11	Tax Deposit Penalty	\$1,013.18		
		10/10/11	Failure to Pay Tax Penalty	\$151.98		
		10/10/11	Interest	\$83.21		
		11/14/11	Tax Deposit Penalty	\$506.60		
		11/18/13	Failure to Pay Tax Penalty	\$2,381.00		
		11/17/14	Interest	\$1,320.45		
		04/18/16	Interest	\$726.05		
941	09/30/11	05/07/12	Tax	\$11,449.81	\$22,744.68	03/19/18
		05/07/12	Late Filing Penalty	\$2,576.21		
		05/07/12	Tax Deposit Penalty	\$1,144.96		
		05/07/12	Failure to Pay Tax Penalty	\$400.74		
		05/07/12	Interest	\$219.17		
		06/11/12	Tax Deposit Penalty	\$572.49		
		11/18/13	Failure to Pay Tax Penalty	\$1,889.22		
		11/17/14	Interest	\$1,346.25		
		11/17/14	Failure to Pay Tax Penalty	\$572.49		
		04/18/16	Interest	\$887.50		
941	12/31/11	05/21/12	Tax	\$9,926.95	\$16,843.21	03/19/18
		05/21/12	Tax Deposit Penalty	\$992.64		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		05/21/12	Failure to Pay Tax Penalty	\$198.54		
		05/21/12	Interest	\$90.74		
		06/25/12	Tax Deposit Penalty	\$496.35		
		11/18/13	Failure to Pay Tax Penalty	\$1,588.31		
		11/17/14	Interest	\$955.09		
		11/17/14	Failure to Pay Tax Penalty	\$694.89		
		04/18/16	Interest	\$657.22		
941	03/31/12	06/25/12	Tax	\$9,872.52	\$17,122.39	03/19/18
		06/25/12	Tax Deposit Penalty	\$918.11		
		06/25/12	Failure to Pay Tax Penalty	\$91.81		
		06/25/12	Interest	\$42.24		
		07/30/12	Tax Deposit Penalty	\$459.05		
		11/18/13	Failure to Pay Tax Penalty	\$1,423.06		
		11/17/14	Interest	\$838.56		
		11/17/14	Failure to Pay Tax Penalty	\$780.39		
		11/23/15	Interest	\$425.23		
		03/07/16	Add'l Tax	\$1,127.32		
941	06/30/12	10/22/12	Tax	\$9,842.89	\$2,495.97	03/19/18
		06/11/12	Dishonored Check Penalty	\$25.00		
		10/22/12	Late Filing Penalty	\$372.09		
		10/22/12	Tax Deposit Penalty	\$579.01		
		10/22/12	Failure to Pay Tax Penalty	\$45.39		
		10/22/12	Interest	\$18.37		
		11/26/12	Tax Deposit Penalty	\$40.54		
		11/18/13	Failure to Pay Tax Penalty	\$101.36		
		11/17/14	Interest	\$124.66		
		11/17/14	Failure to Pay Tax Penalty	\$89.20		
		04/18/16	Interest	\$97.38		
941	09/30/12	01/07/13	Tax	\$10,645.79	\$17,626.90	03/19/18
		01/07/13	Tax Deposit Penalty	\$1,064.58		
		01/07/13	Failure to Pay Tax Penalty	\$159.69		
		01/07/13	Interest	\$59.52		
		02/18/13	Tax Deposit Penalty	\$532.29		
		11/17/14	Interest	\$713.28		
		11/17/14	Failure to Pay Tax Penalty	\$1,596.86		
		04/18/16	Interest	\$649.68		
		04/18/16	Failure to Pay Tax Penalty	\$904.90		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
941	12/31/12	03/18/13	Tax	\$10,786.64	\$2,229.18	03/19/18
		03/18/13	Tax Deposit Penalty	\$412.49		
		03/18/13	Failure to Pay Tax Penalty	\$11.40		
		03/18/13	Interest	\$4.32		
		04/22/13	Tax Deposit Penalty	\$57.02		
		11/17/14	Interest	\$83.26		
		11/17/14	Failure to Pay Tax Penalty	\$159.66		
		04/18/16	Interest	\$82.18		
		04/18/16	Failure to Pay Tax Penalty	\$114.04		
941	03/31/13	07/08/13	Tax	\$7,747.28	\$11,746.29	03/19/18
		07/08/13	Tax Deposit Penalty	\$718.40		
		07/08/13	Failure to Pay Tax Penalty	\$107.76		
		07/08/13	Interest	\$40.86		
		08/12/13	Tax Deposit Penalty	\$359.20		
		11/17/14	Interest	\$349.85		
		11/17/14	Failure to Pay Tax Penalty	\$862.08		
		04/18/16	Interest	\$423.54		
		04/18/16	Failure to Pay Tax Penalty	\$826.15		
941	06/30/13	08/26/13	Tax	\$10,898.36	\$17,697.00	03/19/18
		08/26/13	Tax Deposit Penalty	\$1,089.84		
		08/26/13	Failure to Pay Tax Penalty	\$54.49		
		08/26/13	Interest	\$23.31		
		09/30/13	Tax Deposit Penalty	\$544.92		
		11/17/14	Interest	\$471.64		
		11/17/14	Failure to Pay Tax Penalty	\$1,253.31		
		04/18/16	Interest	\$630.85		
		04/18/16	Failure to Pay Tax Penalty	\$1,416.79		
941	12/31/13	02/24/14	Tax	\$12,341.32	\$12,341.32	03/19/18
		02/24/14	Failure to Pay Tax Penalty	\$40.46		
		02/24/14	Interest	\$15.98		
		04/18/16	Interest	\$546.38		
		04/18/16	Failure to Pay Tax Penalty	\$1,982.39		
941	06/30/14	09/01/14	Tax	\$5,106.26	\$7.13	02/22/18
		06/16/14	Dishonored Check Penalty	\$30.60		
		09/01/14	Tax Deposit Penalty	\$346.08		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		09/08/14 11/17/14	Interest Dishonored Check Penalty	\$0.08 \$25.00		
941	09/30/14	12/01/14 12/01/14 12/01/14 12/01/14 01/05/15 04/18/16 04/18/16	Tax Tax Deposit Penalty Failure to Pay Tax Penalty Interest Tax Deposit Penalty Interest Failure to Pay Tax Penalty	\$7,497.62 \$435.94 \$15.20 \$3.88 \$76.00 \$87.80 \$235.61	\$2,382.51	04/18/16
941	12/31/14	02/23/15 02/23/15 02/23/15 02/23/15 03/30/15 03/30/15 03/30/15 04/18/16 04/18/16	Tax Tax Deposit Penalty Failure to Pay Tax Penalty Interest Tax Deposit Penalty Failure to Pay Tax Penalty Interest Interest Failure to Pay Tax Penalty	\$35,945.64 \$3,594.56 \$179.73 \$68.01 \$1,797.28 \$179.73 \$114.62 \$1,366.77 \$4,493.20	\$47,747.54	04/18/16
941	03/31/15	06/01/15 04/20/15 06/01/15	Tax Dishonored Check Penalty Interest	\$3,988.90 \$25.00 \$0.07	\$25.07	06/01/15
941	06/30/15	11/09/15 06/22/15 11/09/15 11/09/15 11/09/15 11/09/15 12/14/15 12/14/15 12/14/15 04/18/16 04/18/16	Tax Dishonored Check Penalty Late Filing Penalty Tax Deposit Penalty Failure to Pay Tax Penalty Interest Tax Deposit Penalty Failure to Pay Tax Penalty Interest Interest Failure to Pay Tax Penalty	\$5,660.18 \$25.00 \$495.80 \$420.57 \$73.45 \$34.95 \$183.63 \$18.37 \$13.60 \$53.73 \$128.54	\$5,125.26	04/18/16
941	09/30/15	02/22/16 02/22/16 02/22/16	Tax Late Filing Penalty Tax Deposit Penalty	\$30,046.74 \$4,056.31 \$3,004.67	\$39,796.09	03/28/16

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		02/22/16	Failure to Pay Tax Penalty	\$600.93		
		02/22/16	Interest	\$320.61		
		03/28/16	Tax Deposit Penalty	\$1,502.34		
		03/28/16	Failure to Pay Tax Penalty	\$150.24		
		03/28/16	Interest	\$109.25		
941	12/31/15	02/22/16	Tax	\$14,788.10	\$17,232.90	03/28/16
		02/22/16	Tax Deposit Penalty	\$1,478.81		
		02/22/16	Failure to Pay Tax Penalty	\$73.94		
		02/22/16	Interest	\$26.69		
		03/28/16	Tax Deposit Penalty	\$739.40		
		03/28/16	Failure to Pay Tax Penalty	\$73.94		
		03/28/16	Interest	\$47.02		
941	03/31/16	05/23/16	Tax	\$7,051.28	\$3,991.05	09/05/16
		05/23/16	Failure to Pay Tax Penalty	\$17.64		
		05/23/16	Interest	\$8.88		
		09/05/16	Tax Deposit Penalty	\$431.27		
941	06/30/16	08/22/16	Tax	\$8,147.66	\$9,505.47	09/26/16
		08/22/16	Tax Deposit Penalty	\$814.76		
		08/22/16	Failure to Pay Tax Penalty	\$40.74		
		08/22/16	Interest	\$19.61		
		09/26/16	Tax Deposit Penalty	\$407.38		
		09/26/16	Failure to Pay Tax Penalty	\$40.74		
		09/26/16	Interest	\$34.58		
941	09/30/16	11/21/16	Tax	\$14,964.76	\$16,092.07	03/06/17
		11/21/16	Failure to Pay Tax Penalty	\$69.42		
		11/21/16	Interest	\$31.90		
		03/06/17	Tax Deposit Penalty	\$2,107.09		
941	12/31/16	02/27/17	Tax	\$13,953.12	\$6,135.00	06/12/17
		02/27/17	Failure to Pay Tax Penalty	\$24.49		
		02/27/17	Interest	\$14.52		
		06/12/17	Tax Deposit Penalty	\$1,197.09		
941	03/31/17	05/29/17	Tax	\$6,035.90	\$5,482.04	09/11/17
		05/29/17	Failure to Pay Tax Penalty	\$22.95		
		05/29/17	Interest	\$4.54		
		06/05/17	Dishonored Check Penalty	\$91.81		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
		06/05/17 06/15/17 09/11/17	Failure to Pay Tax Penalty Interest Tax Deposit Penalty	\$22.95 \$13.62 \$735.91		
941	06/30/17	02/12/18 02/12/18 02/12/18 02/12/18 02/12/18	Tax Late Filing Penalty Tax Deposit Penalty Failure to Pay Tax Penalty Interest	\$13,650.92 \$3,071.46 \$1,365.09 \$477.78 \$363.05	\$18,928.30	02/12/18
941	09/30/17	02/12/18 02/12/18 02/12/18 02/12/18 02/12/18	Tax Late Filing Penalty Tax Deposit Penalty Failure to Pay Tax Penalty Interest	\$12,832.00 \$1,369.30 \$1,031.34 \$202.86 \$131.95	\$12,878.45	02/12/18
941	12/31/17	02/26/18 02/26/18 02/26/18 02/26/18	Tax Tax Deposit Penalty Failure to Pay Tax Penalty Interest	\$26,958.04 \$2,695.80 \$134.79 \$76.92	\$29,865.55	02/26/18
940	12/31/09	12/13/10 12/13/10 12/13/10 12/13/10 11/14/11 11/12/12 12/13/10	Tax Late Filing Penalty Failure to Pay Tax Penalty Interest Failure to Pay Tax Penalty Failure to Pay Tax Penalty Interest	\$2,480.00 \$72.00 \$136.40 \$107.04 \$210.80 \$272.80 \$50.50	\$613.02	03/19/18
940	12/31/10	10/10/11 10/10/11 10/10/11 10/10/11 11/12/12 06/17/13 06/17/13 11/18/13 11/17/14 11/17/14 04/18/16 04/18/16	Tax Late Filing Penalty Failure to Pay Tax Penalty Interest Failure to Pay Tax Penalty Add'l Tax Late Filing Penalty Failure to Pay Tax Penalty Interest Failure to Pay Tax Penalty Interest Failure to Pay Tax Penalty	\$559.23 \$125.83 \$25.17 \$17.85 \$67.11 \$869.82 \$217.45 \$91.02 \$215.92 \$104.38 \$101.24 \$69.58	\$2,677.86	03/19/18

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
940	12/31/11	05/14/12	Tax	\$590.01	\$6,725.74	03/19/18
		05/14/12	Late Filing Penalty	\$79.65		
		05/14/12	Failure to Pay Tax Penalty	\$11.80		
		05/14/12	Interest	\$5.73		
		11/18/13	Failure to Pay Tax Penalty	\$100.30		
		05/26/14	Tax Deposit Penalty	\$309.17		
		05/26/14	Add'l Tax	\$3,091.65		
		05/26/14	Late Filing Penalty	\$463.75		
		08/25/14	Tax Deposit Penalty	\$154.58		
		11/17/14	Interest	\$373.30		
		11/17/14	Failure to Pay Tax Penalty	\$220.90		
		04/18/16	Interest	\$237.90		
		04/18/16	Failure to Pay Tax Penalty	\$525.58		
940	12/31/13	02/24/14	Tax	\$675.71	\$6,304.15	03/19/18
		02/24/14	Failure to Pay Tax Penalty	\$3.38		
		02/24/14	Interest	\$1.33		
		04/18/16	Interest	\$46.12		
		04/18/16	Failure to Pay Tax Penalty	\$165.56		
		05/02/16	Tax Deposit Penalty	\$347.23		
		05/02/16	Add'l Tax	\$3,472.28		
		06/27/16	Tax Deposit Penalty	\$173.61		
940	12/31/14	05/23/16	Tax	\$802.94	\$1,093.70	05/23/16
		05/23/16	Late Filing Penalty	\$180.66		
		05/23/16	Failure to Pay Tax Penalty	\$64.24		
		05/23/16	Interest	\$40.86		
940	12/31/15	02/22/16	Tax	\$984.09	\$995.79	02/22/16
		02/22/16	Failure to Pay Tax Penalty	\$4.92		
		02/22/16	Interest	\$1.78		
940	12/31/16	02/27/17	Tax	\$321.63	\$324.19	02/27/17
		02/27/17	Failure to Pay Tax Penalty	\$1.61		
		02/27/17	Interest	\$0.95		

Tax Type	Tax Period Ending	Assessment Date	Assessment Type	Assessed Amount	Balance Due	Balance Date
1120	12/31/08	05/28/12 11/17/14 04/18/16	Late Filing Penalty Interest Interest	\$2,136.00 \$164.46 \$101.17	\$2,592.91	03/19/18
1120	12/31/09	07/02/12 11/17/14 04/18/16	Late Filing Penalty Interest Interest	\$2,136.00 \$157.85 \$100.87	\$2585.44	03/19/18
1120	12/31/10	07/02/12 11/17/14 04/18/16	Late Filing Penalty Interest Interest	\$4,680.00 \$345.86 \$221.04	\$5,664.78	03/19/18
1120	12/31/11	12/10/12 11/17/14 04/18/16	Late Filing Penalty Interest Interest	\$3,120.00 \$187.00 \$145.80	\$3,736.43	03/19/18
1120	12/31/13	06/01/15	Late Filing Penalty	\$3,120.00	\$3,125.00	06/01/15
1120	12/31/14	11/23/15 04/18/16	Late Filing Penalty Interest	\$780.00 \$9.85	\$794.85	04/18/16
1120	12/31/15	01/02/17	Late Filing Penalty	\$1,170.00	\$1,175.00	01/02/17
CVPN	12/31/10	10/14/13 11/17/14 04/18/16	IRC 6721 Penalty for Intentional Disregard Interest Interest	\$18,550.37 \$618.63 \$843.42	\$21,614.93	04/18/16
Total Balance Due					\$728,263.78	

16. A delegate of the Secretary of the Treasury gave Odyssey notice and made demand for payment of the unpaid taxes described in paragraph 15 above.

17. Despite notice and demand, however, Odyssey has failed, neglected, or refused to fully pay the liabilities described in paragraph 15 above, and as a result, Odyssey remains indebted to the United States, after application of all costs, fees, accruals, abatements, payments, and credits, in the amount of \$728,263.78, plus statutory additions, including interest, that continue to accrue.

WHEREFORE, the plaintiff United States of America respectfully requests that the Court:

A. Find that Odyssey Spirits, Inc., Mark A. Hoehn, and Laura A. Hoehn have engaged and are engaging in conduct that interferes with the enforcement of the internal revenue laws;

B. Find that injunctive relief under 26 U.S.C. § 7402(a) and the Court's inherent equity powers is necessary and appropriate to prevent Odyssey and Mark and Laura Hoehn from interfering with the enforcement of the internal revenue laws;

C. Enter an injunction, pursuant to 26 U.S.C. § 7402(a), Fed. R. Civ. P. 65, and the Court's inherent equity powers, ordering that:

1. Odyssey shall, and Mark and Laura Hoehn shall cause Odyssey and other employer entity that they control to, withhold from each employee's paycheck an appropriate amount of income tax and the employee portion of the FICA tax;

2. Odyssey shall, and Mark and Laura Hoehn shall cause Odyssey and other employer entity that they control to, timely deposit withheld employee income tax, withheld employee FICA tax, and employer FICA tax in an appropriate federal depository bank in accordance with federal deposit regulations;

3. Odyssey shall, and Mark and Laura Hoehn shall cause Odyssey and other employer entity that they control to, timely deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with federal deposit regulations;

4. Mark and Laura Hoehn shall sign and deliver to a designated IRS revenue officer, or to such specific location as the IRS may deem appropriate, on the first day of

each month, an affidavit stating that the required federal income taxes, FICA taxes, and FUTA taxes were fully and timely deposited for each pay period during the prior month;

5. Odyssey shall, and Mark and Laura Hoehn shall cause Odyssey and other employer entity that they control to, timely file Form 941 employment tax returns and Form 940 unemployment tax returns that come due after the date of the injunction, and Mark and Laura Hoehn shall provide a copy of each filed return to a designated IRS revenue officer in such manner as the IRS deems appropriate, within five days of filing;

6. Odyssey shall, and Mark and Laura Hoehn shall cause Odyssey and other employer entity that they control to, timely pay all required outstanding liabilities due on each return required to be filed under the Court's injunction order;

7. Odyssey and Mark and Laura Hoehn are enjoined from paying other creditors of Odyssey or from transferring, disbursing, or assigning any money, property, or assets of Odyssey after the date of the injunction order until after such time as the required deposits described in paragraphs C-1 and C-2, and any liabilities described in paragraph C-6, have been paid in full, for any tax period ending after the injunction is issued;

8. Odyssey and Mark and Laura Hoehn are enjoined from assigning and/or transferring money or property to any other entity to have that entity pay the salaries or wages of Odyssey's employees, except for a commercial payroll services provider approved in advance by counsel for the United States;

9. Odyssey and Mark and Laura Hoehn shall permit a representative from the Internal Revenue Service to inspect Odyssey's books and records periodically with two days' notice of each inspection;

10. For the five-year period beginning on the date this injunction order is entered, Mark and Laura Hoehn shall notify, in writing, such revenue officer as the IRS designates, if either Mark or Laura Hoehn intend to or do form, incorporate, own, or work in a managerial capacity for another business entity. Regardless of such notification, the preceding subparagraphs of this paragraph C shall apply to any employer entity controlled by Mark and/or Laura Hoehn.

D. Require Mark and Laura Hoehn and Odyssey to deliver to all of their current employees, and any former employees employed at any time since March 31, 2008, a copy of the Court's findings and injunction;

E. Retain jurisdiction over this case for a five-year period to ensure compliance with this injunction, including authorizing the United States to take post-judgment discovery to ensure compliance;

F. Order that, if Mark and Laura Hoehn or Odyssey violate any term of this injunction, then counsel for the United States shall send Defendants written notice of the violation, and Defendants shall have 10 days after notification is sent to cure the violation;

1. A "cure" for the violation includes making a late tax deposit and all accruals on such tax; paying delinquent tax shown on a return and all accruals on such tax; filing a delinquent tax return; and providing a delinquent notification to the designated IRS revenue officer.

2. If counsel for the United States has sent Defendants three separate written notifications for three separate violations, then counsel for the United States shall no longer be obligated to send written notification of a violation.

3. If any violation is not cured within ten days of notification or if, after the third notification followed by cures, the United States becomes aware of a new violation by Mark or Laura Hoehn or Odyssey, then the United States shall be entitled to file with this Court a motion for an Order to Show Cause why Mark and Laura Hoehn and Odyssey should not be held in contempt of this injunction and why Odyssey should not be ordered to cease doing business immediately and why Mark and Laura Hoehn should not be permanently enjoined from forming, incorporating, or owning another or a successor business entity and from working for any business in any capacity that includes any responsibility for withholding, accounting for, or paying over employment taxes or for filing employment tax returns.

G. Enter judgment in favor of the United States of America and against the defendant Odyssey Spirits, Inc., in the amount of \$728,263.78, plus statutory additions, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c), that continues to accrue, for the unpaid tax liabilities assessed against the defendant Odyssey Spirits, Inc. for the quarterly employment tax periods ending on March 31, 2007, September 30, 2007, December 31, 2007, March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010, June 30, 2010, September 30, 2010, December 31, 2010, March 31, 2011, June 30, 2011, September 30, 2011, December 31, 2011, March 31, 2012, June 30, 2012, September 30, 2012, December 31, 2012, March 31, 2013, June 30, 2013, December 31, 2013, June 30, 2014, September 30, 2014, December 31, 2014, March 31, 2015, June 30, 2015, September 30, 2015, December 31, 2015, March 31, 2016, June 30, 2016, September 30, 2016, December 31, 2016, March 31, 2017, June 30, 2017, September 30, 2017, December 31, 2017 ; as well as the annual unemployment tax

periods 2009 – 2011 and 2013 – 2016; as well as for late filing penalties for Form 1120 for income tax years 2008 – 2011 and 2013 – 2014; as well as for an IRC § 6721 Civil Penalty for Intentional Disregard for the tax period ending on December 31, 2010; and

H. Any other and further relief that the Court deems just and proper, including the United States' costs and attorneys' fees.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Angela R. Foster
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

I. Civil Categories: (Please check one category only).

1. ☐ General Civil
2. ☐ Administrative Review/Social Security
3. ☐ Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is **RELATED** to another **PENDING** civil case is a **REFILED** case was **PREVIOUSLY REMANDED**

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule **3.8**, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY: _____

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY: _____

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY: _____

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> AKRON | (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne) |
| <input type="checkbox"/> CLEVELAND | (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland) |
| <input type="checkbox"/> YOUNGSTOWN | (Counties: Columbiana, Mahoning and Trumbull) |

WESTERN DIVISION

- | | |
|---------------------------------|---|
| <input type="checkbox"/> TOLEDO | (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot) |
|---------------------------------|---|

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

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_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: